

REMARKS

This Amendment is submitted response to the official action that issued on September 11, 2009. Claims 28-34 were pending in the application. In the official action, claims 28-34 were rejected. In this Amendment, claims 28, 31, and 34 have been amended. Claims 28-34 thus remain for consideration.

Applicant submits that claims 28-34 are in condition for allowance and requests withdrawal of the rejections in light of the following remarks.

§103 Rejections

Claims 28-34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kidder (U.S. Patent 6,363,413) in view of Parkkinen et al. (U.S. Patent 7,072,366).

Applicant submits that the independent claims (claims 28, 31, and 34) are patentable over Kidder and Parkkinen (collectively "the cited references").

Applicant's invention as recited in the independent claims is directed toward a content server, a terminal, and a method of distributing content. Each of the claims recites the use of "base data representing the content at a first quality" and upgrading data, "the upgrading data being difference data that is combined with the base data to generate data representing the content at a second quality that is higher than the first quality." The claims further recite that "the difference data [is] formed by subtracting the data in the first format from the data in the target format." (Emphasis supplied.) Supporting disclosure for the emphasized recitation can be found in the specification at, for example, page 49, lines 12-16.

Neither of the cited references discloses the emphasized recitation. In particular, Applicant notes that Parkkinen's column 6, lines 43-55 does not disclose that the "enhanced data stream 103" is formed by subtracting the "core data stream 102" from the "scalable encoded data stream 104."

Accordingly, Applicant believes that claims 28, 31, and 34 are patentable over the cited references - taken either individually or in combination - on at least this basis.

Further, since dependent claims inherit the limitations of their respective base claims, Applicant believes that dependent claims 29, 30, 32, and 33 are patentable over the cited references for at least the same reasons as discussed in connection with the independent claims.

Applicant respectfully submits that all of the claims now pending in the application are in condition for allowance, which action is earnestly solicited. If any issues remain, or if the Examiner has any further suggestions, he/she is invited to telephone the undersigned at (908) 654-5000.

The Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 12-1095.

The Examiner's consideration of this matter is gratefully acknowledged.

Dated: December 7, 2009

Respectfully submitted,
Electronic signature: /Bruno Polito/
Bruno Polito
Registration No.: 38,580
LERNER, DAVID, LITTENBERG, KRUMHOLZ &
MENTLIK, LLP
600 South Avenue West
Westfield, NJ 07090
(908) 654-5000
Attorney for Applicants

Amendment per OA 9-11-09.DOC